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Attorneys for Plaintiff,
Jamie Manning

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

Jamie Manning, Plaintiff, vs. Elevate Recoveries, L.L.C., a Texas company, Defendant.	Case No.: **COMPLAINT** **JURY TRIAL DEMAND**

NOW COMES THE PLAINTIFF, JAMIE MANNING, BY AND THROUGH COUNSEL, NATHAN J. SCHWARTZ, and for her Complaint against the Defendant, pleads as follows:

JURISDICTION

1. This court has jurisdiction under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692k(d) and 28 U.S.C. §§1331,1337.

VENUE

2. The transactions and occurrences which give rise to this action occurred in the City of The Colony, Denton County, Texas.
3. Venue is proper in the Eastern District of Texas, Sherman Division.

PARTIES

4. The Defendant to this lawsuit is Elevate Recoveries, L.L.C., which is a Texas company that maintains its registered agent in the City of Anna, in Collin County, Texas.

GENERAL ALLEGATIONS

5. Defendant is attempting to collect a consumer type debts allegedly owed by Plaintiff to Hebron Emergency Physicians in the amount of $1,011.00 (the "Debt").

6. On or about June 2, 2016, Ms. Manning received a phone call from Defendant's representative, who called himself Jason. Not once during this conversation did Jason state that he was a debt collector, in violation of the FDCPA. During this conversation, Jason threatened Ms. Manning by telling her that he would report the alleged Debt to her credit report every week until the Debt was paid.
7. This was the first time that Ms. Manning heard from Defendant and it was the first time that she ever learned that this alleged Debt existed.
8. On or about June 14, 2016, Plaintiff's parents received a letter from Defendant which offered to settle the alleged Debt and stated that if she did not pay the account in 45 days, it could be reported to the credit bureaus. However, it further stated that the settlement offer and deadline for accepting it did not in any way affect her right to dispute the validity of the alleged Debt within 30 days.
9. The above letter is contrary to the representation made by Defendant's representative above when he told Ms. Manning that he would report the alleged Debt every week to the credit bureaus. That false representation overshadows her 30 days to dispute the alleged Debt. If he is going to immediately report the Debt, he is overshadowing the Plaintiff's right to the 30 day-validation period, under the FDCPA.

10. On or about June 14, 2016, Ms. Manning received another phone call from Defendant's representative who previously told her his name was Jason, however, in this phone call he said his name was "Nicholas." During this conversation, "Nicholas" told Ms. Manning that he was attempting to collect the alleged Debt in the amount of $1,000.00 and that he would settle for $808.00. This is contrary to the amount on the above letter that Defendant sent to Plaintiff's parents, which stated that it was attempting to collect $1,011.00.

11. On or about June 16, 2016, Ms. Manning received an email from Hebron Emergency, the creditor, which stated that it submitted the alleged Debt to her insurance carrier and that it has been placed on hold with collections for 60 days.

COUNT I-VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

12. Plaintiff reincorporates the preceding allegations by reference.

13. At all relevant times, Defendant, in the ordinary course of its business, regularly engaged in the practice of collecting debts on behalf of other individuals or entities.

14. Plaintiff is a "consumer" for purposes of the FDCPA, and the account at issue in this case is a consumer debt.

15. Defendant is a "debt collector" under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6).

16. Defendant's foregoing acts in attempting to collect this alleged debt violated the following provisions of the FDCPA:

   a. 15 U.S.C. §1692e(2)(A) by misrepresenting the character, amount or legal status of any debt. Defendant did this when its representative called Ms. Manning stating that she owed a debt for $1,000.00 which is contrary to the amount on the letter it sent to Ms. Manning’s parents, which stated it was attempting to collect $1,011.00.

   b. 15 U.S.C. §1692e(5) by threatening to take any action that cannot be legally taken. Defendant did this when its representative threatened to report the alleged Debt to Ms. Manning’s credit report every week until the Debt was paid, overshadowing Ms. Manning’s 30 day validation period to dispute the debt.

   c. 15 U.S.C. §1692e(10) by using false representations or deceptive means to collect a Debt. Defendant did this when its representative threatened to report the allege Debt to Ms. Manning’s credit report every week until the debt was paid. Then Defendant sent Ms. Manning’s parents a letter offering to settle the debt and that it if she didn’t pay within 45 days, it could report the Debt to the credit bureaus. This is contrary to what the representative told Ms. Manning.

d. 15 U.S.C. §1692e(11) by failing to communicate that the communicating is from a debt collector. Defendant did this when its representative, Jason, did not state that he was a debt collector during his conversation with Ms. Manning.

17. The Plaintiff has suffered economic, emotional, general, and statutory damages as a result of these violations of the FDCPA.

WHEREFORE, PLAINTIFF PRAYS that this court grant her a judgment against Defendant for actual damages, costs, interest, and attorneys' fees.

DEMAND FOR JUDGMENT RELIEF

Accordingly, Plaintiff requests that the Court grant her the following relief against the Defendant:

a. Actual damages;

b. Statutory damages; and

c. Statutory costs and attorneys' fees.

JURY DEMAND

Plaintiffs hereby demand a trial by Jury.

DATED: December 12, 2016

Respectfully Submitted:

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